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SUBJECT: BRIEFING ON THE KHMER ROUGE TRIBUNAL AT THE UN

¶1. (U) BEGIN SUMMARY: The UN Secretariat hosted a briefing on November 27, 2007 on recent developments concerning the United Nations Assistance to the Khmer Rouge Trials (UNAKRT) and the Extraordinary Chambers in the Courts of Cambodia (ECCC). Larry Johnson, Assistant-Secretary-General for Legal Affairs, presented the briefing, which was based on his recent visit to the ECCC (November 7-9). The briefing primarily addressed issues of resident judges and allegations of corruption, including the possible appointment of a Special Envoy to monitor the work of the Court. END SUMMARY.

¶2. (U) Based on consultations with judges during his recent ECCC visit, Johnson said that there is no clear conception of what role, if any, resident judges should play. Suggestions varied from having full time resident judges as registrars, to having administrative judges providing judicial oversight every four weeks, to having co-investigative judges simply assume additional tasks. Accordingly, Johnson indicated that it would be advisable to delay any action until the judges had reached agreement.

¶3. (U) With respect to allegations of corruption, Johnson said he emphasized three basic messages on behalf of the Secretariat during his visit: 1) corruption is unacceptable, with a zero tolerance policy in effect; 2) allegations of corruption will not go away for the ECCC because donors are concerned with the issue and because the matter will likely be raised by defense counsel in court proceedings; and 3) the management of the Court needs to be strengthened, potentially with the appointment of a Special Envoy or Special Advisor "to engage directly with Deputy Prime Minister Sok An, to consult regularly with the donors at the Ambassadorial level, and to be a bridge between the UN and Cambodian sides of the Court." According to Johnson, the Special Envoy position would be a short-term appointment by the Secretary General, beginning in mid-January and continuing for a period of up to nine months.

¶4. (U) Johnson also touched upon the various meetings he participated in during his visit. As to officials of the court, Johnson met with four Judges (Cartwright, Lemonde, Downing, and Lahuis), Co-Prosecutor Petit, Director Visoth, Deputy Director Lee, and Principal Defender Skillbeck. He said that all of the court officials agreed with his first and third messages; however, with respect to the second message on allegations of corruption, the Director and Deputy Director described the remedial measures that were being taken to address the issue. Johnson also met with representatives of seven donor Governments: Australia, Canada, France, Germany, Japan, the United Kingdom, and the United States (potential donor). All Governments similarly agreed with his first message. With respect to the second message, Johnson suggested that the EC initiative regarding an independent review might be the most viable option. As to the third message, he said that all donors agreed to the appointment of a Special Envoy in principle, but that

several Governments raised financing-related questions.

15. (U) Johnson also met with Deputy Prime Minister Sok An, who reaffirmed his Government's support for the Court. However, Johnson said that Sok An expressed reservations about the creation of a Special Envoy because it might necessitate the creation of a similar post on the Cambodian side. Additionally, Johnson held a joint meeting with UNDP and EC representatives. Johnson gave the floor to an EC representative during the briefing to describe the EC initiative on addressing allegations of corruption. The EC representative said that the Project Board (which oversees the Trust Fund financing the Cambodian side of the Court) recently met on November 17, 2007. He further said that the terms of reference for an independent review would be shared with the Project Board at the next meeting, which will likely be held in January.

16. (U) Following Johnson's general conclusions, which underscored the importance of effectively addressing allegations of corruption and appointing a Special Envoy because of rule of law and international justice requirements, delegations were invited to take the floor. In response to a question by the UK on the judicial timetable, Johnson indicated that the Court's first trial would likely occur in late spring or early summer. The Netherlands asked about the Court's physical preparation for trials, at which point Johnson recognized the continuing problem in securing interpreters. The Netherlands also asked whether the results of an independent investigation, as proposed by the EC, would be made public, and the EC representative responded positively. Additionally, in response to a question by Australia on the timeline for the EC's proposed independent review, the EC representative indicated that the review could be completed by mid-summer, before the start of the first trial.

17. (SBU)USUN, using the Department's talking points for the UN's November 1 briefing on the same issue, reemphasized administrative issues and other matters that need to be addressed, including implementation of the job skills survey and installing stronger safeguards to protect against kickbacks. USUN also expressed support for creating a Special Representative of the Secretary General to pursue structural change in the Court. (Comment: Following the meeting, Johnson approached the U.S. delegation to seek assistance in convincing the Japanese to support the creation of a Special Envoy. Johnson indicated that he had spoken to the Japanese Ambassador immediately before the meeting, and that the Ambassador was resistant to the appointment of a Special Envoy. End Comment.)
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